

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

THOMAS O'CONNOR, an individual, on behalf of  
himself and all others similarly situated,

Plaintiffs,

v.

EUROMARKET DESIGNS, INC., an Illinois  
corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. 3:11- CV-02140-JSW

**[PROPOSED] ORDER GRANTING  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

NANCY DARDARIAN, individually and on behalf  
of all others similarly situated,

Plaintiff,

v.

EUROMARKET DESIGNS, INC. d/b/a CRATE &  
BARREL, an Illinois corporation,

Defendant.

Case No. 3:11-CV-00945-JSW

JESSICA SHUGHROU, an individual, on behalf of  
herself and all others similarly situated,

Plaintiff,

vs.

EUROMARKET DESIGNS, INC., an Illinois  
corporation, and DOES 1 through 50, inclusive

Defendants

Case No. 3:11-cv-02325-JSW

CARLOS CAMPBELL, individually and on behalf  
of all others similarly situated,

Plaintiff,

v.

EUROMARKET DESIGNS, INC., an Illinois  
corporation,

Defendant.

Case No. 3:11-CV-01368-JSW

ZETHA NOBLE, individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

EUROMARKET DESIGNS, an Illinois  
corporation,

Defendant.

Case No. 3:11-CV-03329-JSW

TIFFANY HEON, for herself and All Others  
Similarly Situated,

Plaintiff,

v.

EUROMARKET DESIGNS, INC., dba CRATE &  
BARREL and DOES 1 through 20, inclusive,

Defendant.

Case No. 3:11-CV-05239-JSW

1 Plaintiffs in the above-captioned actions have submitted an unopposed Motion for entry of an  
2 Order Granting Preliminary Approval of Class Action Settlement, determining certain matters in  
3 connection with the proposed Settlement of this class action, pursuant to the terms of the Settlement  
4 Agreement reached by the parties and presented to the Court for approval. After consideration of the  
5 Settlement Agreement and the exhibit annexed thereto, and after due deliberation and consideration  
6 of the totality of the circumstances and the record, and for good cause shown, it is hereby  
7 ORDERED, ADJUDGED, and DECREED as follows:

8 1. **Defined Terms.** The Court adopts the defined terms set forth in the Settlement  
9 Agreement for purposes of this Order, unless otherwise specified.

10 2. **Preliminary Approval of Settlement.** The Settlement Agreement, including the Full  
11 Notice, the Statutory Claimant Summary Notice, and the Common Law Claimant Certificate  
12 attached as Exhibit 1 to the Settlement Agreement are preliminarily approved. The Court concludes  
13 that the proposed settlement is sufficiently within the range of reasonableness to warrant the  
14 conditional certification of the Settlement Classes, the scheduling of the Fairness Hearing, and for  
15 Defendant Euromarket Designs, Inc. ("Crate & Barrel" or "Defendant") to provide the Class Notices.

16 3. **Provisional Certification of "Common Law Claimants".** Pursuant to Federal Rule  
17 of Civil Procedure 23(b)(3), the Settlement Class of "Common Law Claimants" is provisionally  
18 certified as all persons who: (1) purchased merchandise from a Crate & Barrel store in California  
19 between July 16, 2009 and February 10, 2011; (3) using a credit card; and (3) from whom Crate &  
20 Barrel requested and recorded their ZIP Code into its POS System. Excluded from Common Law  
21 Claimants are any persons whose purchase during the relevant time period involved shipping,  
22 delivery, alterations, or a special order; who are deceased; and/or who are included within the  
23 Statutory Claimants group.

24 4. **Provisional Certification of "Statutory Claimants".** Pursuant to Federal Rule of  
25 Civil Procedure 23(b)(3), the Settlement Class of "Statutory Claimants" is provisionally certified as  
26 all persons who: (1) purchased merchandise from a Crate & Barrel store in California between  
27 February 11, 2010 and February 11, 2011; (2) using a credit card; and (3) from whom Crate & Barrel  
28 requested and recorded their ZIP Code into its POS System. Excluded from Statutory Claimants are

1 any persons whose purchase during the relevant time period involved shipping, delivery, alterations,  
2 or a special order; or who are deceased.

3       **5. Appointment of Class Representative and Class Counsel.** Plaintiffs Jessica  
4 Shughrou, Carlos Campbell, Nancy Dardarian, Thomas O'Connor, Tiffany Heon, Zetha Noble, and  
5 Jason Salmonson are conditionally appointed as the Class Representatives to implement the  
6 proposed settlement in accordance with the Settlement Agreement. The law firms of Stonebarger  
7 Law, APC; Patterson Law Group, APC; Hoffman & Lazear; Morris and Associates; and The Terrell  
8 Law Group are appointed as Class Counsel. The Class Representatives and Class Counsel must fairly  
9 and adequately protect the interests of the Settlement Class.

10       **6. Provision of Notice to the Settlement Class.** Crate & Barrel shall provide the Class  
11 Notices to the Settlement Class Members of the proposed settlement in the manner specified in  
12 Section 5.2 of the Settlement Agreement and will pay all costs associated with claims administration  
13 and providing notice to Settlement Class Members pursuant to Section 4.5 of the Settlement  
14 Agreement.

15       **7. Request for Exclusion (Opt Out).** Settlement Class Members who want to be  
16 excluded from the proposed settlement must submit a written, signed Request for Exclusion to the  
17 Settlement Administrator no later than thirty (30) calendar days prior to the Fairness Hearing.

18       **8. Class Benefit.** Within twenty (20) calendar days after the entry of the Preliminary  
19 Approval Order, Crate & Barrel shall provide each Common Law Claimant for whom it maintains a  
20 complete address with a Common Law Claimant Credit Certificate with the Class Notice. If the  
21 Court grants final approval of the proposed settlement, Crate & Barrel shall mail a Statutory  
22 Claimant Credit Certificate to each Statutory Claimant who does not opt out and for whom it  
23 maintains a complete address within ten (10) calendar days following Final Judicial Approval.

24       **9. Objection to Settlement.** Settlement Class Members who have not submitted a  
25 timely Request for Exclusion and who want to object to the proposed settlement, must file a signed,  
26 written objection with this Court and serve copies on Class Counsel and Crate & Barrel's Counsel,  
27 no later than thirty (30) calendar days prior to the Fairness Hearing.  
28

1           10.     **Notice of Intention to Appear at Fairness Hearing.** Any Settlement Class Member  
2 who wishes to be heard at the Fairness Hearing must file a signed, written Notice of Intention to  
3 Appear with the Court and serve copies on Class Counsel and Crate & Barrel's Counsel, no later  
4 than thirty (30) calendar days prior to the Fairness Hearing.

5           11.     **Timeliness.** For purposes of determining timeliness for Settlement Class Member  
6 submissions of Requests for Exclusion, Objections, or Notices of Intention to Appear, the  
7 submission shall be deemed to have been made on the date postmarked by the postal service or other  
8 expedited delivery service.

9           12.     **Failure to Act.** Settlement Class Members who do nothing (i.e., they do not submit a  
10 Request for Exclusion or do not object), will be included in the Settlement Class and be bound by  
11 the terms of the Settlement Agreement, if the Court grants final approval of the proposed settlement.  
12 These Settlement Class Members will neither receive the Class Benefit nor be able to pursue any  
13 other lawsuit against Crate & Barrel concerning or relating to the claims alleged in this Action.

14           13.     **Effect of Termination of Settlement Agreement.** If the Settlement Agreement  
15 terminates for any reason, the following will occur: (a) Settlement Class certification will be  
16 automatically vacated, and (b) this Action will revert to its previous status in all respects as it existed  
17 before the Parties executed the Settlement Agreement. This Order does not waive or otherwise  
18 impact the Parties' rights or arguments.

19           14.     **No Admissions.** Nothing in this Order is, or may be construed as, an admission or  
20 concession on any point of fact or law by or against any Party.

21           15.     **Stay of Proceedings.** All discovery and pretrial proceedings and deadlines are stayed  
22 and suspended until further notice from the Court, except for such actions as are necessary to  
23 implement the Settlement Agreement.

24           16.     **Deadlines.** The Court sets the following deadlines:

25                 a.     Crate & Barrel shall complete the mailing of Class Notices, as provided in  
26 Section 5.2 of the Settlement Agreement, within twenty (20) calendar days of the date of entry of this  
27 Order.

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2 b. Plaintiffs and Class Counsel shall file all papers supporting Plaintiffs' request  
3 for attorneys' fees and costs and class representative incentive awards at least fourteen (14) days  
4 prior to the Objection Deadline.

5 c. Settlement Class Members shall submit Requests for Exclusion or objections,  
6 if they so elect, no later than thirty (30) days prior to the Fairness Hearing.

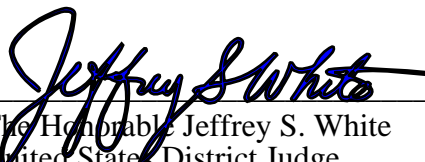
7 d. Responses to any objections submitted by Settlement Class Members shall be  
8 filed at least seven (7) days prior to the Fairness hearing.

9 e. Plaintiffs' Motion for Final Approval of the Settlement Agreement and any  
10 other papers supporting Final Approval shall be filed at least seven (7) days prior to the Fairness  
11 hearing.

12 f. On June 28, 2013, at 9:00 a.m. this Court will hold a Fairness Hearing to  
13 determine whether the Settlement Agreement should be finally approved as fair, reasonable, and  
14 adequate. The Court may order the Fairness Hearing to be postponed, adjourned, or continued. If  
15 that occurs, other than posting the new date on the Settlement Website maintained by the Settlement  
16 Administrator, Crate & Barrel will not be required to provide additional notice to Settlement Class  
17 Members.

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19 **IT IS SO ORDERED**

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21 Dated: March 19, 2013

22 By:   
23 The Honorable Jeffrey S. White  
24 United States District Judge  
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